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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/439,626	11/12/1999	JACQUES H. HELOT	109911266-1	1876

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EXAMINER	
JAKETIC, BRYAN J	
ART UNIT	PAPER NUMBER
3627	

DATE MAILED: 01/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/439,626

Applicant(s)

HELOT ET AL.

Examiner

Bryan Jaketic

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-10,12,20-26 and 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-10,12,20-26 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-3, 5-10, 12, 20-26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al in view of Lazarus et al. Smith et al disclose a computer implemented method for remote ordering (see col. 3, lines 39-41) comprising the steps of providing graphical selection of a plurality of options for a base component in an interactive environment, overlaying selected options on the item, and graphically updating the consumer item on the visual display (col. 9, lines 44-57). A user interface

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(100) presents information about the consumer item. The user may not select invalid options that don't conform with previously selected options (col. 9, lines 58-64).

Smith et al do not disclose the steps of dragging and dropping the options, updating the consumer item in real-time, and using the Internet to place the order. However, it is common in the art to drag items, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the step of dragging and dropping the option to allow the user flexibility in its placement. Real-time updating is also common in the art, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to update the consumer in real-time to allow the consumer to quickly see the updated product. It is also common in the art to order items via the Internet. It would have been obvious to one of ordinary skill in the art at the time the invention was made to send the order to the manufacturer via the Internet because the Internet allows efficient transfer of information.

Smith et al do not disclose the step of receiving statistical information from a plurality of users. Lazarus et al disclose a method for modeling consumer financial behavior. Using the method of Lazarus et al, a furniture store receives statistical information from a plurality of users so that ordering trends and tendencies can be examined (see col. 8, lines 27-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the method of Lazarus et al with the invention of Smith et al, so that ordering trends and tendencies can be examined by a merchant to allow the merchant to predict consumer behavior.

### ***Respons to Arguments***

4. Applicant's arguments filed 18 November 2002 have been fully considered but they are not persuasive. Applicant argues that Smith et al teach away from the use of predictive modeling of consumer financial behavior as disclosed in Lazarus et al. Examiner respectfully disagrees. Examiner concedes that the custom user interface generally keeps track of user information at a project level. However, the custom user interface functions as an interface for a user to retrieve useful information. A customer would find information at a project level useful, but a merchant would find information on ordering trends and tendencies to be useful. The customer's use does not preclude a merchant from using an interface for alternate reasons. Lazarus et al teach the collection of data that would be useful to a merchant, and thereby provides motivation for combination.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan Jaketic whose telephone number is (703) 308-0134. The examiner can normally be reached on Monday through Friday (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

bj  
January 9, 2003



ROBERT P. OLSZEWSKI  
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